



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

FEB 23 2018

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

Mr. Bryan Robinson
Manager of Environmental Field Operations
Union Pacific Railroad
1035 Bethel Drive
Eugene, Oregon 97402

Re: Union Pacific Railroad – Pocatello Idaho Yard
Spill Prevention Control and Countermeasure (SPCC) Inspection
Facility Response Plan (FRP) Inspection

Dear Mr. Robinson:

On November 16, 2016, representatives of the U.S. Environmental Protection Agency (EPA) inspected the Union Pacific Railroad Idaho Yard ("Facility") located near Pocatello, Idaho. The purpose of this Spill Prevention, Control and Countermeasure (SPCC) and Facility Response Plan (FRP) inspection was to determine the Facility's compliance with the requirements of the Clean Water Act (CWA) and Oil Pollution Prevention regulations found at 40 C.F.R. Part 112.

The purpose of this Notice of Violation is to notify Union Pacific Railroad of EPA's determinations from that inspection. A summary of deficiency findings of the Oil Pollution Prevention regulations found at the Facility are listed below:

- A description of the duties of the qualified individual ("QI") identified in 40 C.F.R. Part 112.20(h)(1) that include being aware and prepared to fulfill the following responsibilities:
 - Identify character, exact source, amount, and extent of release;
 - Notify and provide information to appropriate Federal, State, and local authorities;
 - Assess interaction of substances with water and/or other substances stored at facility and notify on-scene response personnel of assessment;
 - Assess possible hazards to human health and the environment;
 - Assess and implement prompt removal actions;
 - Coordinate rescue and response actions; and

- Direct cleanup activities.

See 40 C.F.R. Part 112.20(h)(3)(ix), 112 Appendix F Section 1.3.6

- QI has specific response training experience.

See 40 C.F.R. 112 Appendix F Section 1.2

Pursuant to the Oil Pollution Prevention regulations, the Facility must have a certified SPCC plan and FRP plan in accordance with the requirements of 40 C.F.R. § 112.7 and 40 C.F.R. § 112.3(a), must maintain a copy of the plans on site (40 C.F.R. § 112.3(e)), and must fully implement the plans (40 C.F.R. § 112.3(a)). Violations of the SPCC requirements may subject the owner and operator of an SPCC regulated facility to a substantial civil penalty for each day of violation pursuant to Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii) and 40 C.F.R. Part 19. Although it may not prevent the EPA from seeking a penalty for past violations, prompt compliance will be taken into account in determining whether this notice is an adequate enforcement response, or whether further enforcement actions are appropriate and necessary.

Union Pacific Railroad is required to respond in writing to the enclosed findings within thirty (30) days of receipt of this letter. In addition, if an updated SPCC/FRP plan has been prepared (e.g., revised draft or final signed plan), please include it along with your correspondence. The request for information in this notice is made under the authority of Sections 308 and 311(m) of the CWA, 33 U.S.C. §§ 1318 and 1321(m). In accordance with the provisions of 40 C.F.R. § 2.203, you may assert a business confidentiality claim covering part or all of the information submitted by clearly identifying it as "confidential." If no such claim accompanies the information when it is received by the EPA, it may be made available to the public without further notice.

We appreciate your efforts to respond to the areas of concern identified during the November 16 inspection in a timely manner. For example, we acknowledge receipt of your May 2, 2017, email to Richard Franklin with an attached, updated FRP plan. It remains unclear to EPA at this time whether the Facility's QI is aware of the required tasks and has been trained appropriately. EPA would request additional information to close this matter.

In order to help you with your spill prevention work and for current changes to the rule, please visit EPA's Oil Spill site at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>. The EPA reserves the right to revisit your facility at some time in the future. Any questions or follow-up regarding this matter should be directed to Kate Spaulding, EPA Region 10 SPCC Enforcement Officer, at (206) 553-5429 or spaulding.kate@epa.gov. Thank you again for your cooperation.

Sincerely,



Edward J. Kowalski
Director